
The Mesa Refinery Watch Group

DERAIL THE SPUR

MESA REFINERY WATCH GROUP

32 CONDITIONS OF APPROVAL
FOR THE PHILLIPS 66 "RAIL SPUR" PROJECT

SUBMITTED TO THE
SLO COUNTY PLANNING COMMISSION

8/24/16



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INTRODUCTION:

When Imposing Conditions, Our Planning Commissioners Must Remember That 10 Class I Impacts Remain Under The “Three-Train Alternative”

As our Planning Commissioners decide upon conditions of approval, they must bear in mind that 10 Class I impacts continue to exist even with Phillips’ three-train alternative. The cumulative weight of these Class I impacts means no set of conditions outweighs their responsibility to deny this project. The 10 Class I impacts on our County’s citizens are ...

1. Activities at the refinery and on the mainline would generate criteria pollutant emissions exceeding SLO County APCD thresholds.
2. Activities at the refinery and on the mainline would generate greenhouse gas emissions exceeding SLO County APCD thresholds.
3. Union Pacific mainline emissions would remain Class I.
4. Mainline rail toxic emissions would remain Class I.
5. The risk of spills and fires on the mainline would remain Class I.
6. The increased demand for fire protection and emergency response on the mainline would remain Class I.
7. Oil spills along the Union Pacific mainline would remain Class I.
8. The impact on water resources along the Union Pacific mainline would remain Class I.
9. The impact on biological resources along the Union Pacific mainline would remain Class I.
10. And, the impact on cultural resources along the Union Pacific mainline would remain Class I.

The primary duty of our Commissioners is to protect the health and safety of our citizens. It is not to protect the commercial or property rights of a corporation, especially when that corporation seeks to disregard and trample the property and human rights of citizens.

Therefore, there is neither a single nor a full set of conditions under which this Commission should approve this project to overcome 10 Class I, significant and unavoidable impacts ... either at the refinery and/or on the mainline.

However, only because the Commission is now developing conditions of approval, and in order to put all conditions into the official record, the Mesa Refinery Watch Group is submitting the conditions listed on the following pages. We ask that all of them be included in the final conditions.

(continued)

1. Exact Conditions Of Operation Must Be Specified*

SLO County has never before been home to a crude oil rail terminal. It has never had to understand and regulate how such a terminal operates, its impact on citizens, and what's required to protect the environment and health and safety of the public.

Therefore, as a condition of approval -- a highly detailed document must be developed which explains and regulates, on Phillips' property, where trains will move, how locomotives will uncouple and couple, how long each operation will take, other vehicles and machinery that will be required, the type of personnel involved and what their activities will be, and so forth.

As Commissioner Jim Irving stated -- these details "must be nailed down rock solid." As the document is developed, special attention must be paid to specifications for limiting the impacts on the neighboring communities.

2. The Maximum Number Of Trains Unloaded Per Year Must Be Specified*

Phillips initially proposed "up to five trains per week." When that proved to be unacceptable in terms of impacts, they said - "Okay, if that doesn't work, how about three trains per week?" So they'll obviously do anything to get their foot in the door in terms of crude oil trains. For now, they only want to be a "little rail pregnant."

We cannot afford to give them the slightest opening to bring in more trains, tankers or amount of oil than they tell us at this point. There must be no ambiguity.

Therefore -- the three-train per week alternative must be stated in writing in far greater detail, in both the project description and as a condition of approval.

For example -- if the maximum number of annual trains or tankers are unloaded within the first 10 months of the year, we must be assured that no further trains, tankers or amount of oil will arrive or be unloaded until the following year. And if Phillips intends to increase the number of trains, tankers or amount of oil, an entirely new EIR and hearing process must begin. We cannot accept verbal promises about something as important as this. It must all be specified in writing.

The County Planning Department must identify specific enforcement standards for this condition and assign significant penalties for noncompliance with the standards.

***However, no set of conditions will effectively mitigate the 10 Class I, significant and unavoidable impacts of the project under the "three train alternative." Phillips' rail terminal project in its entirety is unacceptable to our County's citizens and voters. We respectfully ask that our Planning Commissioners remember that their primary duty is to protect the health and safety of our citizens, and therefore reject this oppressive project.**

(continued)

3. Phillips Must Provide A Plan For Track Construction*

A major cause of derailments is track failure ... including tracks failing due to the weight of crude oil trains, sheared lag bolts, etc.

Therefore as a condition of approval -- Phillips must provide the County with track construction specifications for their new rail terminal. The construction specifications must conform with the requirements of the Code of Federal Regulations Part 213 for Class 5 track consistent with the mainline design standard; and, also the Federal Railroad Administration's "Track and Rail Infrastructure Integrity Compliance Manual." This includes, but is not limited to roadbed construction, track geometry, and track structure; and, construction materials, testing, methods, and technologies.

Inspection during initial track construction, and for all subsequent maintenance and track rehabilitation must be performed by inspectors qualified in accordance with 49 CFR 219.7, and shall also be guided by the FRA's "Track and Rail Infrastructure Integrity Compliance Manual".

4. Onsite At The Refinery -- Phillips Must Own And Operate The Least Polluting Locomotives*

During these hearings, evidence was submitted regarding how harmful diesel emissions are to citizens' health - no-one disputes it. Yet, each train entering, exiting and moving around the Nipomo refinery will be pulled by three locomotives, each spewing toxic diesel emissions.

Therefore, as a condition of approval -- the locomotives operating at the refinery must be owned by Phillips and operated by its employees. This will eliminate any issues of federal preemption regarding who is in control of the trains -- it would be an oil company, not a railroad, responsible for controlling the on-site emissions.

Additionally, these locomotives must be the latest available, state-of-the-art, least polluting yard engines available at the time. Whether they be the model Tier 4 engines, hybrid yard engines, or any that ultimately supersede Tier 4 and current hybrid engines at a later date ... those are the locomotives which must always be in operation for train movements during unloading operations.

All locomotives not owned and operated by Phillips must shut down immediately upon entering the refinery's grounds. The movement of trains and their impact on the community must be Phillips' responsibility.

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5. The Need For A Detailed Plan Regarding Phillips' Approach To Reducing Diesel Particulate Pollution Emanating From The Rail Terminal*

The EIR identified diesel exhaust at the refinery as a Class I impact. In response, Phillips presented a slight-of-hand approach that would make that impact disappear. This scheme includes ...

- Shutting down diesel locomotives when their fleet of sulfur and petcoke trucks is operating.
- Every day, waiting for strong afternoon winds to blow away the refinery's contaminants.
- Hoping those east-blowing winds containing contaminants won't cross Highway 1 into communities.
- And only at that point they would start up the locomotives and offload crude oil from rail tankers.

All of this flies in the face of mathematics and logistics. The FEIR says, based on three locomotives per train, there will be at least 30 hours of locomotive activity per day, with that activity spread over a 12-hour period. Phillips also says they will not offload the trains after 7:00 PM. How all of that interacts with the stopping and starting of trains and trucks and changing wind conditions is truly a mystery.

Therefore, as a condition of approval -- Phillips must submit a highly detailed plan describing ...

- The numerical counts and specific activities of both their trains and trucks each day.
- The anticipated emissions for each of the various types of locomotives, trucks and other vehicles.
- The timing issues ... when and for how long will each type of vehicle be started and shut off.
- Documentation of afternoon wind velocities and directions at the terminal site.
- The exact impact on the air pollution all of this generates and could pass into local residences.
- And a plan for ongoing monitoring to ensure their plan works year after year, as conditions change.

6. No Diesel Locomotives Operated During Days Of Air Pollution Health Risk*

Repeatedly during these hearings it's been established that there are already many violations of the PM10 and PM 2.5 health standards on the Mesa, and that exhaust from diesel locomotives will only add to the already dirty air and make the health threat to the citizens of the Mesa even higher. No one has disputed that.

Therefore, as a condition of approval -- no diesel locomotive will be operated on Phillips' property between 9 AM and 6 PM on days where there is an increased health risk. Those are the hours of peak concentrations of fine particulate matter on the Mesa. This condition will apply on any day projected by the APCD to exceed the state air quality health standard for PM10 or PM 2.5 on the Nipomo Mesa.

Each day, Phillips must check with APCD to learn their projection of an air quality state health violation for the next day. If there is a violation expected, then diesel locomotives should not operate the next day, as indicated above.

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(continued)

7. Restrictions On The Idling Of Trains*

Substantial evidence has been presented here regarding the air, noise, and vibration pollution the locomotives will generate onsite at the refinery ... all of which will occur every time the locomotives are operating.

Therefore, as a condition of approval -- restrictions must be placed on the locomotives during their designated operational hours if unforeseen conditions cause the train movements to fall outside the timing specified in the Final EIR (see data on next page).

The current train movement timing specifies 1.14 engine-hours of idling at the East end of the tracks, and 13.66 engine-hours of idling on the West end of the tracks. Whenever conditions cause the specified timing to be exceeded by more than 30 minutes, the engines must shut down completely, within safety guidelines. The engines must only be restarted when the locomotives are ready for movement.

Ultimately, if actual movement of the trains shows that the approved timing is frequently in error, Phillips 66 will develop a revised plan. That plan would not exceed the already approved timing and not create even greater diesel emissions than originally approved. That would be so even if it requires Phillips 66 to procure more efficient switching locomotives, or to install an alternate power supply at the East end so that the engines can be shut down. This revised plan must be submitted to the County for approval.

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(continued)

Locomotive Timing Calculations

Two Locomotive in the Head and One Locomotive in the Tail

Total Engine-hours	Activity/location	Sequence Step	Switching	Idling	Off	Total
0.28	Arrival-mainline:switching (1 engine)	Train Arrival				
0.57	Arrival-east of rack:switching (2 engine)	Mainline Track				
0.48	Arrival-west of rack:switching (3 engines)	Locomotive 1	0.00	0.00	0.00	0.00
0.85	Positioning-east of rack: switching (2 engines)	Locomotive 2	0.00	0.00	0.00	0.00
1.14	Positioning-east of rack: idle (2 engines)	Locomotive 3	0.28	0.00	0.00	0.28
0.21	Positioning-west of rack:switching (2 engines)	East of Rack				
0.26	Positioning-west of rack: idle (2 engines)	Locomotive 1	0.28	0.00	0.00	0.28
1.17	Unloading-rack 1: switch (all west of rack)	Locomotive 2	0.28	0.00	0.00	0.28
6.83	Unloading-rack 1: idle (all west of rack)	Locomotive 3	0.00	0.00	0.00	0.00
0.00	Unloading-rack 1: off (all west of rack)	West of Rack				
1.17	Unloading-rack 2: switch (all west of rack)	Locomotive 1	0.16	0.00	0.00	0.16
6.83	Unloading-rack 2: idle (all west of rack)	Locomotive 2	0.16	0.00	0.00	0.16
0.00	Unloading-rack 2: off (all west of rack)	Locomotive 3	0.16	0.00	0.00	0.16
0.00	3rd engine-switching east of rack					
0.08	3rd engine-switching west of rack	Position Train on Track 1 and 2				
1.08	3rd engine-idle west of rack	East of Rack				
9.73	3rd engine-off west of rack	Locomotive 1	0.66	0.33	0.00	1.00
2.77	Pre-Departure-idling (all west of rack)(2 engines)	Locomotive 2	0.19	0.81	0.00	1.00
0.00	Pre-Departure-off (all west of rack)(2 engines)	West of Rack				
0.57	Departure-mainline:switching (2 engines)	Locomotive 1	0.15	0.08	0.00	0.23
0.00	Departure-switching east of rack (1 engine)	Locomotive 2	0.06	0.18	0.00	0.23
0.48	Departure-switching west of rack (3 engines)					
		Unloading				
		East of Rack				
0.15	% Switching offsite	Locomotive 1	0.00	0.00	0.00	0.00
		Locomotive 2	0.00	0.00	0.00	0.00
		West of Rack				
0.85	Total Offsite Switching	Locomotive 1	1.17	6.83	0.00	8.00
5.00	Total Onsite Switching	Locomotive 2	1.17	6.83	0.00	8.00
18.92	Total idling					
9.73	Total off	Third Locomotive				
34.50	Total	East of Rack				
		Locomotive 3	0.00	0.00	0.00	0.00
		West of Rack				
0.28	Fraction of onsite switching east of rack	Locomotive 3	0.08	1.08	9.73	10.90
0.06	Fraction of idling east of rack					
		Idle Time Prior to Departure				
0.243	Fraction of all switching east of rack	East of Rack				
0.06	Fraction of idling east of rack	Locomotive 1	0.00	0.00	0.00	0.00
		Locomotive 2	0.00	0.00	0.00	0.00
2.58	Engine 1 & 2 switching, per engine	West of Rack				
8.92	Engine 1 & 2 idling, per engine	Locomotive 1	0.00	1.38	0.00	1.38
0.69	Engine 3 switching	Locomotive 2	0.00	1.38	0.00	1.38
1.08	Engine 3 idling					
		Train Departure				
		Mainline Track				
		Locomotive 1	0.28	0.00	0.00	0.28
		Locomotive 2	0.28	0.00	0.00	0.28
		Locomotive 3	0.00	0.00	0.00	0.00
		East of Rack				
		Locomotive 1	0.00	0.00	0.00	0.00
		Locomotive 2	0.00	0.00	0.00	0.00
		Locomotive 3	0.00	0.00	0.00	0.00
		West of Rack				
		Locomotive 1	0.16	0.00	0.00	0.16
		Locomotive 2	0.16	0.00	0.00	0.16
		Locomotive 3	0.16	0.00	0.00	0.16
			LM #1	LM #2	LM#3	
		Train Arrival	0.44	0.44	0.44	
		Position Train on Track 1 and 2	1.23	1.23	0.08	
		Third Locomotive	0.00	0.00	10.81	
		Unloading	8.00	8.00	0.00	
		Idle Time Prior to Departure	1.38	1.38	0.00	
		Train Departure	0.44	0.44	0.16	
		Total	11.50	11.50	11.50	

Assumes third locomotive when at end of track 5 idles for 10% of time and is off 90% of time.

8. The Fence Line Around The Rail Terminal And Refinery Must Meet EPA Monitoring Standards*

Phillips' plan brings with it an entirely new set of air pollutants ... based on diesel exhaust, tar sands refining, and petroleum coke piles and dust.

Therefore, as a condition of approval -- Phillips 66 must be required to submit a site-specific fence line monitoring and emergency response plan to SLO County APCD for review and approval.

The plan must comply with all Federal EPA and State Air Resources Board Standards of Performance and Emission Standards for refineries included in the Code of Federal Regulation Title 40, and California Code of Regulations Title 17. This includes monitoring, performance testing, record-keeping, and reporting of refinery emissions, including fugitive particulate matter, carbon monoxide, sulfur oxides, benzene, propane, butane and other volatile organic compounds and greenhouse gases.

The plan must include installation of state-of-the-art fence line monitoring equipment to provide publicly accessible fence line data similar to that provided at the Phillips 66 Rodeo refinery (**see next page**). It will also provide a training program for refinery personnel, and a protocol for rapid response when fence line monitoring detects fugitive gas and particulate aberrations.

<http://www.enveraconsulting.com/petroleum-refinery-fenceline-monitoring/>
<http://www.envstd.com/us-epa-proposal-requires-oil-refinery-fenceline-benzene-monitoring/>
<http://www.fenceline.org/rodeo/data.php>
 40 CFR Part 60 Subpart J
 40 CFR Part 60 Subpart Ja
 43 CFR Part 63 Subpart CC
 43 CFR Part 63 Subpart UUU
 CCR Title 17 Sections 95100-95158

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(continued)

PHILLIPS 66 RODEO REFINERY FENCE LINE DATA

Ambient air quality data provided on the Phillips 66 Rodeo Refinery website is raw data at the time of collection – unchecked data that may contain errors

Message Board

07/27/2016 06:55 - At 8:31 pm last night the North FTIR reported a detection of mercaptan above CWS levels. The mercaptan detection occurred for a single five minute period and then was no longer detected. Upon receiving the notification, P66 shift operations reviewed all refinery operations and completed onsite and offsite patrols and found no indication of a release from the refinery. Argos has reviewed the data during this time period and after discussion with the equipment manufacture, determined the incident a false detection by the air monitoring system. Argos will continue to work with equipment manufacture to determine the root cause of the false detection and minimize the occurrence of future false detects.

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FTIR Systems

Chemical (values in PPB)	South Fence Line	North Fence Line
System Status	Online	Online
Date	2016-08-04	2016-08-04
Time	09:47:44	09:48:52
1,3 Butadiene	ND	ND
Carbonyl Sulfide	ND	ND
Total Hydrocarbons	66	105
Carbon Monoxide	ND	122
Ethanol	ND	15
Ethylene	ND	ND
Nitrous Oxide	377	388
Ammonia	ND	ND
Mercaptan	ND	ND
Methane	2827	3178
MTBE	ND	ND

UV Systems

Chemical (values in PPB)	South Fence Line	North Fence Line
System Status	Online	Online
Signal Strength	2636	1621
Date	2016-08-04	2016-08-04
Time	09:45:29	09:46:56
Benzene	ND	ND
Carbon Disulfide	ND	ND
Ozone	13	18
Sulfur Dioxide	ND	ND
Toluene	ND	ND
Xylene	ND	ND

TDL Systems

System Status	Online	Online
Data Date	2016-08-04	2016-08-04
Data Time	09:47:22	09:45:56
Signal Strength	6402	2322
Hydrogen Sulfide	ND	ND

Organic Gas Detectors (OGDs)

Instrument (values in %LEL)	% Level
System Status	Online
Data Date	2016-08-04
Data Time	09:49:37
AT-1	0 ●
AT-2	0 ●
AT-3	0 ●
AT-4	0 ●
AT-5	0 ●
AT-6	2.61 ●

Weather Conditions

System Status	Online
Date	2016-08-04
Time	09:49:25
Temperature (°F)	57
Humidity (%)	83
Dew Point (°F)	52
Wind Speed (MPH)	11

Wind is blowing from the SSW (198°)



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Last Name	<input type="text"/>
Email	<input type="text"/>
<input type="button" value="Submit"/>	

Click on any chemical name or concentration for more detailed information

Background Colors

Detected below CWS Limits: Green
 Detected at or above CWS level II limit: Orange
 Detected at or above CWS level III limit: Red

Abbreviations

ND - No Detect
 PPB - Parts per billion
 %LEL - Percentage of Lower Explosive Limit

Local Resources

Phillips 66 San Francisco Refinery
 1380 San Pablo Avenue
 Rodeo, CA 94572
 Community Information Line:
 510-245-4070
www.sfrfinery.com

This site is maintained and operated by [Argos Scientific](#)
[Contact Argos Scientific](#)

Contra Costa County Health Services
 Randall L. Sawyer
 Hazardous Materials Programs Director
 4585 Pacheco Blvd, Suite 100
 Martinez, CA 94553
 925-335-3200
www.cchealth.org/groups/hazmat/

9. The Petroleum Coke From Tar Sands Must Be Studied And Its Dust Must Be Mitigated*

Petroleum coke is a byproduct of refining heavy crude. The tar sands that Phillips intends to refine here will also produce petcoke ... perhaps even more than the crude they currently process. Phillips' petcoke dust is already carried by onshore winds and breathed by residents. And petcoke, which contains heavy metals, is linked to respiratory issues, heart disease, and childhood cancers.

Therefore, as a condition of approval -- Phillips must:

1. Provide a detailed, independent analysis of the amount of petcoke that will be generated by the refining of tar sands at its refinery. We cannot take their word that there will be less or the same amount.
2. Provide a plan showing how petcoke particulates will be reduced or eliminated. This is particularly critical because under their new method of operation, locomotives, buffer cars and tankers will pass through the petcoke fields, stirring up the fields and allowing far more dust to escape into the air. The "fluming" and further distribution of this dust caused by trains must not be allowed.
3. And if Phillips' solution is to wash down their tanker cars, how will the filthy water be recovered so that it doesn't leach into the Mesa's groundwater?

10. Limiting The Destruction Of The Buffer Zone*

The closer the rail terminal and its tracks are allowed to come to nearby homes, the more impacts residents will feel from the project ... including air, noise, light, odor and visual pollution, plus the dangers inherent in oil spills and fires.

It's been established at these hearings that Phillips intends to remove a major portion of the existing buffer zone, regardless of its impact on residents.

Also at these hearings, while the County staff described that the buffer zone is designed to separate industrial use from residential use ... there are no specific numerical standards set by the County. Indeed, the staff indicated that reduction of the buffer zone is a major reason for rejecting the project.

Therefore, as a condition of approval -- the County will reexamine the issue of reduction of the buffer zone. The staff will determine in a far more detailed way, why the buffer zone remains critical, and steps Phillips must take to preserve a far greater portion of that zone.

***However, no set of conditions will effectively mitigate the 10 Class I, significant and unavoidable impacts of the project under the "three train alternative." Phillips' rail terminal project in its entirety is unacceptable to our County's citizens and voters. We respectfully ask our Planning Commissioners to remember that their primary duty is to protect the health and safety of our citizens, and therefore reject this oppressive project.**

(continued)

11. Increasing The Buffer Zone By Reducing The Length Of Crude Oil Trains*

Each train Phillips intends to bring into its refinery will have 80 tank cars. A train of that length has a direct bearing on the length of the tracks Phillips requires, and the amount of land that will be taken away from the current buffer zone.

Therefore, as a condition of approval -- any train arriving at Phillips' refinery would be limited to hauling 60, not 80 tankers. This would make the trains 25% shorter, and require less track length. It would thereby increase the amount of the remaining buffer.

Indeed, given that Phillips intends to continue receiving oil by pipeline and use rail for "optionality," this Commission should seriously consider limiting each train to 40, not 80 cars ... i.e., a reduction of 50% in the length of the trains. The Planning Commission should also determine whether moving shorter trains around the refinery will require fewer locomotives, thus decreasing locomotive emissions.

12. Onsite At The Refinery -- Specific Locomotive And Rail Terminal Shut Down Times*

Audio and video evidence has been presented at these hearing regarding how intrusive to neighbors the proposed trains and rail terminal would be ... including noise pollution, vibration pollution, and light pollution.

These would stem from the operations of trains, the unloading facilities, trucks and other machinery. All of these would harm the lives of thousands of neighbors ... especially during the early evening and nighttime hours. Indeed, needed sleep would be permanently disturbed ... leading to both physical and psychological issues.

Therefore, as a condition of approval -- there must be a hard shut-down time. Both the trains and all rail terminal and unloading operations must cease from early evening until first light, giving citizens respite from the ongoing, daytime, invasive nature of what Phillips is proposing.

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(continued)

13. Strict Limitations On Noise Levels*

One of the most obvious impacts of Phillips' rail plan will be never-ending, extreme noise ... stemming from trains going over tracks, from train whistles, from cars uncoupling and coupling, from locomotives starting up, from locomotive engine vibrations, from machinery operations at the unloading facility, and from trucks and other onsite vehicles.

And the cumulative impact, as multiple sounds occur at the same time, is likely to be far greater.

Yet, noise testing during the EIR phase was terribly flawed. It did not come even close to simulating the number of trains and their movements, the actual unloading facility operations, and more.

Therefore, as a condition of approval --

1. Additional noise testing must be conducted that reflects actual rail yard situations, the actual number of tankers, and the actual uncoupling and coupling of cars -- none of which was conducted before.
2. Then, both maximum and average allowable decibel levels will be specified for all onsite rail terminal operations ... including noise from both the trains and the facilities. This will include separate specifications for the daytime (when the terminal is operating) and nighttime (when it is not).

The County Planning Department must identify specific enforcement standards for this condition and assign significant penalties for noncompliance with the standards.

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(continued)

14. Creation Of Visual Models Of What The Rail Terminal Will Look Like*

Phillips intends to vastly change the use of its land by building five railroad tracks and an offloading facility. Yet, what visual representations have they shown Commissioners regarding what this invasive complex will actually look like?

After all, the visual impacts are critical components of this project, and Phillips has shown are a few maps. If another firm were proposing to build a warehouse or hotel complex, wouldn't Commissioners demand to see it first in extreme visual detail?

Therefore, as a condition of approval -- two types of comprehensive images of the proposed terminal must be created:

- First, a detailed computer rendering of the complete facility must be prepared and made available online.
- Secondly, a 3-dimensional, physical, topological, scale model of the complete facility must be built. Such a model would be standard for any new large, sprawling facility, enabling officials and the public to examine the proposal as it will actually exist with far greater perspective.

The visuals must demonstrate what the project would look like from US 1 and public areas that look down at the site from across the highway ... i.e., the renderings must include the neighboring communities, shown at the proper height perspectives, including views from the elevations at Louise Lane and Monarch Ridge in Trilogy.

These visuals must include the the trains, the berm, perimeter lighting, tracks, trucks and other vehicles, the unloading facility itself, and all other elements that come with the rail terminal. And they must enable a view of the facility from all angles and elevations ... including from all sides of the property and from above.

These visuals are to be examined by the Planning Commission and it's staff. The scale model must also be on public display in a County office for a specified period of time. Public comment will be held at a Planning Commission meeting. The commission will then determine any changes that Phillips would need to make prior to constructing the rail terminal.

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(continued)

15. Installation Of Landscape Screening*

During these hearings Commissioners have been shown many visuals of what other rail terminals look like ... with mile-long chains of black oil tankers, crisscrossing tracks, oil offloading facilities, attending vehicles, etc. Approval of this project will result in similar visual destruction of what is currently a scenic vista.

The public must be compensated for this destruction ... and the destruction must be minimized.

Therefore, as a condition of approval -- prior to beginning construction of the terminal, Phillips must plant an extensive number of trees and other shrubs along the fenced perimeter of Highway 1, as well as within other areas of the terminal ... wherever there will be visual impacts. The trees must all be fully-grown and tall ... not saplings that will take a decade or more to grow to acceptable height. All trees and shrubs must be evergreen.

And Phillips must be responsible for proper landscape maintenance and any replacements of trees/shrubs as long as the rail terminal exists. A plan for ongoing maintenance must be submitted to, and reviewed and approved by the County Planning Department.

The County Planning Department must identify specific enforcement standards for this condition and assign significant penalties for noncompliance with the standards.

16. A Berm That Is Far Higher Than Indicated In The Final EIR*

As testified at these hearings -- there was inadequate testing during the EIR process to determine the rail operations' visual impact on neighbors. Even though Trilogy's roads are public roads at a high elevation, they were not taken into account regarding visual impacts. This was confirmed by County staff. So measuring the impact only from Highway 1, a far lower location, erroneously calculates the impacts for residents.

Therefore, as a condition of approval -- new visual tests must be done from the proper elevations. Then, the 20-foot high berm that Phillips proposes must be specified to be at a far greater height. Only then might we begin to mitigate the noise and incredibly ugly visual impacts that come with a crude oil rail terminal.

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17. Reduced Lighting At Night*

After dark, due to operational and security issues, the rail terminal will be lit up like a baseball stadium ... both within its perimeter and along its miles of fence lines. This will of course be a source of incredible light pollution to nearby residents who look down upon the entire refinery.

Therefore, as conditions of approval --

1. Before any final lighting plans are approved, sample light towers or fixtures must be erected at the actual locations of the rail terminal and perimeter. They must be tested to see their actual impact on residents ... and they must be tested in all atmospheric conditions including fog. Adjustments to the lighting plan must be made as appropriate.
2. The height of the light towers must also be tested. The height of those towers must be as low as possible to minimize their effect on neighboring residences.
3. All lights related to the rail terminal must be "down-shaded" ... that is, pointed down.
4. Lastly, when operations are not going on, lights in appropriate areas must be shut off, especially at night. Where perimeter lights are used for security, they should be used in conjunction with a motion detection system ... i.e., illuminated at night only when motion is detected.

18. Odors From The Crude Oil Unloading Facility Must Be Monitored And Contained*

As you know, exposed crude oil has a distinctly noxious smell. With crude oil arriving by pipeline, there is no exposed crude oil at Phillips refinery.

However, with Phillips' proposal, oil will be exposed as it's transferred from rail tankers to the company's storage facilities. Indeed, now that Phillips is transferring oil out of trucks, residents have noticed far greater odor pollution. And with far greater quantities of oil being pumped out of rail tankers, there will also be substantial odors escaping and carried by onshore winds into local communities.

Therefore, as conditions of approval:

1. Research must be conducted to determine the type and strength of the odors that would emanate from tar sands (during the unloading and refining processes) and the resulting petcoke.
2. Research must be conducted to determine the maximum allowable odor for the rail terminal.
3. A monitoring system must be put in place to measure odors on an ongoing basis, with penalties put in place for violations.
4. And, a vapor recovery system must be installed, to reduce the odors.

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19. Onsite At The Refinery -- Utilization Of Only State-Of-The-Art Crude Oil Tankers*

Evidence has been presented here about how even the latest crude oil tankers cannot prevent rupture and spills during derailments. Even the very latest DOT-117 cars are extremely vulnerable to rupture when traveling at any significant speed.

Therefore, as a condition of approval -- at the Nipomo refinery, only state-of-the-art crude oil tankers will be allowed on the refinery's grounds. This will be the case whether the cars are DOT-117 models or whatever the safest cars are specified by the federal government at any given time.

The cars must include the latest available technology. As per Commissioner Jim Irving -- "The cars must have all the 'bells and whistles'."

Even if federal regulations give companies additional years to implement state-of-the-art tankers, Phillips must not delay to that date. They must immediately purchase/lease those model cars or retrofit existing cars to meet the highest-known standards, regardless of cost, and regardless of future deadlines for implementing new tanker models.

20. Onsite At The Refinery --

All Trains Must Be Equipped With Positive Train Control Braking Systems*

Ample evidence has been presented at these hearings regarding the extreme dangers of shipping crude by rail, at any speed. The causes are human error, mechanical failure, track failure, and many others. To date, the railroad companies have proven to be woefully unable to prevent crude oil train accidents.

Therefore, as a condition of approval -- the trains operating onsite at the Nipomo refinery, regardless of their speed, must have the latest available "positive train control" (PTC) braking systems. These must be utilized from the day the rail terminal is completed. And regardless of the cost to Phillips, PTC braking systems must be utilized by trains moving around the refinery.

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21. The Training That Phillips Workers Must Have When Working Under A Crude-By-Rail Delivery Model Must Be Specified In Detail*

For the last 60 years the Nipomo refinery has received its crude by a relatively safe, pipeline system. Under Phillips' new model, for the first time crude would arrive by rail and then be transferred using a new offloading facility.

This new model is far more complex, involves more dangerous vehicles and machinery, and carries far greater opportunities for accidents impacting employees and residents. However, Phillips has not trained its Nipomo employees for crude-by-rail, nor has it addressed training issues at these hearings.

Therefore, as conditions of approval --

- Phillips must submit a comprehensive training program for their crude oil rail operations workers for approval by SLO County.
- The plan must specify mandatory competencies and detail how those competencies will be learned and demonstrated. As a minimum the training must comply with OSHA protocols, plus state and local requirements.
- The plan must specify the number of hours of classroom and practical training to be initially completed, as well as the types and timing of ongoing refresher training. Only OSHA-certified instructors would deliver this training.
- And, there must be periodic worker testing to ensure they've mastered the competencies.

22. An Enforcement Fund And Random Inspections By The County To Ensure Compliance With Conditions Of Approval*

Phillips has shown they will attempt to get away with whatever they can. For example, first they wanted to leave the door open for rail delivery of Bakken crude to the refinery. Then they wanted to bring in five trains per week to the facility. Only citizens' objections caused them to back down from those plans.

So, as Commissioner Ken Topping stated here -- "I don't see how you could avoid funding a permanent monitoring program that maintains vigilance." In other words, we cannot rely on Phillips to be its own policeman regarding ongoing implementation of the imposed conditions.

Therefore, an annual enforcement fund must be established, paid for by Phillips. The County will use that fund for personnel, equipment and systems to monitor the rail terminal operations on a permanent basis, both with regular reporting and with random, unannounced inspections. The fund would be required to expand if the monitoring needs changes over time or if costs increase, this too paid for by Phillips.

Where circumstances warrant, the County will refer issues or violations to other counties or federal agencies for action. Costs for such additional reviews and oversight will be assessed to Phillips.

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23. Phillips Must Pay To Relocate Schools In The Blast Zone*

If towns had known that railroads would be used to ship flammable crude oil, they never would have built schools near railroad tracks.

In SLO County, there are a number of schools in the half-mile “evacuation zone” where they will be impacted by fires, explosions and poisonous air from crude oil train derailments, and the one-mile “impact zone” where they will be impacted by the effects of fires such as toxic smoke. That is why local teachers have vehemently objected to Phillips’ plan, which will put their students in danger.

Therefore as a condition of approval -- Phillips will pay to relocate SLO County schools that are within the evacuation and impact zones. They will pay for purchasing new land and pay for building the new facilities. This must be completed within five years, starting the day that Phillips starts construction of the rail terminal. And, if our Commissioners think this is an unreasonable condition, they must talk to the citizens of Mt. Vernon, Washington. They just approved a \$106 million bond to relocate their elementary school out of the blast zone.

24. Phillips Must Pay To Train Teachers About Response To Crude Oil Train Derailments*

Teachers have consistently complained that they have no skills or training in how to respond to a crude oil train derailment near their schools ... including impact from the trains into school buildings, oil spills, fires, explosions, smoke, etc.

Therefore as a condition of approval -- Phillips will pay for the training of all teachers in SLO County to be able to respond to crude oil train derailment emergencies.

In addition, Phillips will provide a grant to SLO County Schools to develop annual student training and a simulated drill regarding student safety in event of an oil train disaster. This grant must include hiring an expert with experience in this type of training, who will either conduct the training or teach others to do so. The County Planning Department will determine the appropriate amount of this grant.

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25. Phillips Must Pay For Updated Hospital Disaster Preparedness And County-Wide Drills*

As many towns and cities have unfortunately learned, crude oil train disasters are not a matter of “if” but “when.” And when it happens, too often those municipalities find themselves under-prepared to handle the intensity and scope of the disaster.

Therefore, as a condition of approval -- Phillips must provide a grant to all SLO County hospitals and emergency care facilities to update their disaster preparedness plans to take into account oil train accidents and the impacts of spills, fires, explosions, toxic smoke and other serious injuries. The upgraded disaster plans must reflect handling many dozens or hundreds of injured citizens and first responders at the same time.

Given that developing and implementing upgraded disaster plans can take a number of years, Phillips must provide the grant prior to starting construction of the rail terminal.

In addition, a county-wide oil train disaster drill must be conducted annually, that includes, fire, police, hospitals and any other essential services to test plans in a simulated but coordinated fashion. The expense must be covered by Phillips each year. Phillips would be a participant but may not lead the annual drill.

The grant amount and the costs for ongoing drills will be determined by the County Planning Department.

26. Phillips Must Pay To Train All Emergency Service Responders In SLO County*

It has been shown that fire and police departments are unprepared, undertrained and under-funded to handle disasters from crude oil train derailments. SLO County is no different.

Therefore as a condition of approval -- Phillips will pay for all emergency responders in SLO County (police, fire departments and emergency medical service teams in all towns through which their crude oil tankers will travel) to go to specialized oil train derailment/accident training programs. This will include ongoing training as new approaches come online year after year.

In addition, responders must be trained on how to get citizens who need care, from one side of tracks that are blocked due to a derailment, to the other side so they can be taken to hospitals. For example, if the tracks that bisect Grover Beach at Grand Avenue, block traffic from one side to the other ... what is the plan to get people who need care to emergency rooms?

Phillips must pay for all travel expenses as well as all training programs and related plans. All training programs must be of the highest caliber certifications.

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27. Phillips Must Pay For Firefighting Foam & Equipment*

As shown in the Mosier, Oregon derailment -- firefighting foam has little or no effect when crude oil fires are initially burning out of control ... the foam simply evaporates. However, foam is of help at later stages after much of the fire has burned out. In SLO County, there are not sufficient supplies of foam and related equipment, and they are not located in all towns along the mainline.

Therefore as a condition of approval -- for as long as the rail terminal exists, Phillips must pay for ample supplies of fire-fighting foam to be located in every town along the mainline route in SLO County ... i.e., a sufficient amount to fight a major crude oil fire stemming from a derailment. And they must pay for the equipment and training of each town's responders on the proper use of foam.

28. Phillips Must Post A Bond To Address The Issue Of Potential Damage To Residents, Property And The Environment*

Many times, Phillips and their public relations staff have told us they would not be responsible if their tankers derail and cause damage and injuries along the mainline. They would point the finger at Union Pacific and tell us to call the railroad.

But what happens if Phillips rail terminal facilities or trains on refinery property cause injuries or death to members of the public, or damage to other peoples' property or to the environment? This could include fire, smoke, oil spills or other destruction. Who are we going to call and who pays for it all?

Therefore, as a condition of approval -- Phillips must bear financial responsibility for all injuries and damages of all types stemming from the onsite trains and rail terminal, and for remedying it all to residents' satisfaction. And to ensure that this occurs, Phillips would be required to post a bond of substantial size to address this issue. The County Planning Department will determine the size of the bond.

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29. An Array Of Conditions Must Be Imposed During Construction Of The Rail Terminal*

If this project ever enters the construction stage, it will cause six months of havoc and danger for thousands of citizens living on the Mesa. They will be faced with truck traffic from construction vehicles, loud noise from the construction of both the railroad tracks and unloading facility, additional air pollution from construction vehicles, and visual and light pollution from an extremely complex and busy construction site.

Therefore, as a condition of approval -- our Commissioners must impose stringent conditions for the project's construction stage, helping limit impacts to local residents.

This would include, but not be limited to restricting the days and hours of construction, limiting the light and noise emanating from the site, monitoring air pollution from the activities, and, prior to construction -- planting trees and shrubbery and building a berm to help block out the noise and visual pollution of the construction site. Plus, random inspections of the site by County personnel must be made to be sure that all conditions are being adhered to during the construction phase.

30. Each Month There Will Be A Complete Review Of All Impacts And Compliance Issues*

SLO County has never had a crude oil rail terminal and County officials have no experience or education in regulating one. Yet, Phillips is telling officials there will be no significant and unavoidable impacts, and that they will comply with all mitigations and conditions of approval.

Therefore as a condition of approval -- beginning with the completion of the rail terminal -- each month there will be a detailed analysis of all actual impacts mentioned in the Final EIR (air, noise, light, odor pollution, oil spills, etc.) and all conditions of approval. The review will compare actual performance with thresholds and expectations. This review will be conducted by the County and paid-for by Phillips 66.

Wherever there are impacts that go beyond the thresholds stated in the FEIR, or where Phillips is in noncompliance with conditions, they must resubmit plans and state how and when they will mitigate issues and/or come into compliance.

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31. Phillips Must Maintain A Complaint Line For Use By The Public And Respond In A Timely Manner*

Phillips' crude-by-rail strategy will result in numerous environmental impacts, including air pollution, odors, lighting, visual and noise impacts. It is clearly foreseeable that many times in the future Phillips will be in noncompliance with standards set to minimize these impacts.

Therefore, as a condition of approval -- Phillips must operate a manned, 24-hour complaint phone line for the public's use both during construction of the rail terminal and into the future. They must advertise the availability of the line to the public. A Phillips' employee must promptly respond directly to the caller with an answer and solution (e.g., within two hours). And, records of all complaints and how they were handled must be submitted to the County on a quarterly basis.

Penalties, paid by Phillips, must be developed and assessed by the County Planning Department for noncompliance with handling citizens' complaints.

32. If Phillips Rejects Or Defeats Any Conditions Of Approval, The County Must Adopt A "Poison Pill"*

Together, this commission and our County's citizens are developing a critical list of stipulations which we believe Phillips must adhere to regarding their rail terminal. However, for one reason or another, after this Commission finalizes them, Phillips or other entities may cause those conditions to be abandoned.

Therefore, as a condition of approval -- SLO County's Deputy Counsel recommended that the conditions include a "poison pill" ... that if any one of the conditions are found not to be valid or enforceable, approval of the entire project, prior to construction of the terminal, will be withdrawn by the County.

SLO County Citizens in opposition to the project overwhelmingly agree with this poison pill stipulation. As the representatives of citizens, our Planning Commissioners must include this condition.

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